

Entertainers' and Speakers' Fees Payments & State Tax Withholding

Objective

To withhold and remit to the Department of Revenue the 2% tax on payments to nonresident entertainers and public speakers.

Policy

1. [Minnesota Statutes section 290.9201](#) provides for a 2% withholding tax on the gross compensation paid to non-Minnesota entertainers for any performances in Minnesota. Under the statute, entertainers are defined to include musicians, singers, dancers, comedians, thespians, athletes, and public speakers.

If a vendor is subject to the tax, it applies to:

- a. The fee for the performance,
 - b. Any expense reimbursement paid to the vendor.
2. *Exemption from withholding* - Payments to a nonresident **public speaker** are exempt from withholding if the compensation paid to the speaker is less than \$2,000 or is only a payment of the speaker's expenses.
3. *Total exemption from the tax* - The tax **does not** apply to the following types of vendors:
 - a. A resident of Minnesota or one of the "reciprocity states" (Michigan, North Dakota and Wisconsin).
 - b. A corporation (unless the entertainer is a major shareholder of the corporation).
 - c. A partnership (unless the entertainer is a partner in the firm).
 - d. A speaker who performs in a classroom setting, provided that
 - i. students receive credit toward a degree for the class; and
 - ii. the speech or lecture is not open to the general public.

Agencies should continue to use object codes in the 2D0 group when paying these classroom speakers.

4. *Object Codes* - In order to facilitate the required federal Form 1099 and Minnesota W-2 reporting, object codes 2D61 and 2D62 are for payment of all entertainer's and speakers fees, including fees paid to Minnesota residents and other exempt vendors.

5. *Encumbrances* - Agencies must encumber each agreement or contract with a separate encumbrance document(s) to a specific vendor in MAPS. This includes agreements for Minnesota and reciprocity-state vendors. Agreements that qualify under a professional-technical services plan must be encumbered separately. **Do not set up multiple-vendor encumbrances for payments to entertainers and speakers.** A separate encumbrance(s) should be established to pay the 2% tax.
6. *No Third-Party Vendors* - An agency must not agree to make payments to third parties (such as travel agencies and hotels) on behalf of an entertainer or speaker. The agency may agree to reimburse the entertainer or speaker for travel expenses, but the payments must be made to the individual, corporation, or partnership that is providing the entertainment.
7. *Payments* - Payments to a vendor that is subject to the tax must be made for 98% of the amount due, using the normal payment procedure. The warrant to the vendor will show 98% of the amount due.

The 2% withholding tax must be made as a PV Type 2. **This payment portion must be processed the same day as the payment to the vendor.** The Seller account data should be fund 100, agency G90, organization 7520, and revenue source code 1005. The vendor invoice field must include both the vendor number and the payment transaction number of the 98% payment portion made to the vendor.

8. *Federal 1099's* - Federal 1099 forms will be run at year-end for these payments. The Non-employee compensation box will be manually adjusted to include 100% of the amount (the 98% sent to the vendor and the 2% sent to Revenue). The State Income Tax withheld box will be adjusted to display the 2% amounts withheld and sent to Revenue.

If the vendor is a corporation, and no 1099 would be generated, a 1099 will be created manually and include both the 98% sent to the vendor and the 2% sent to Revenue.

9. *Which Services Are Subject to the Tax?* - The Department of Revenue has provided the following examples to help break out speakers' fees from consultant and professional-technical services.

1. *Consultant Services vs a Speech*

Example #1: An architect is hired by the state to consult about the design of the capitol mall. The architect also makes a presentation to a group of legislators to explain the designs. Even though the architect is informing people about the designs, he or she is also providing the work of making plans and recommendations. The architect was not hired strictly to make the presentation. In this case, the architect would not be considered an entertainer. Therefore, the architect's services fall into object class 2D0.

Example #2: An architect is hired by the state to give a presentation to the Minnesota Historical Society about preservation of unique building. The architect will not provide any services other than this presentation. The architect is considered an entertainer and subject of the 2% tax. The presentation falls into object code 2D61.

2. *Professional-technical Services vs a Speech*

Example #1: An educator is hired by the Department of Revenue to give a workshop on teambuilding. The workshop includes the dissemination of pamphlets and handouts and also various team-building exercises in which the audience members participate. The educator is providing a service other than just a speech and so would not be considered an entertainer. Therefore, the workshop falls into 2D0 object class.

Example #2: The same educator in the previous example is hired to speak at a seminar for Revenue. The only purpose of the speech is to inform the audience of teambuilding ideas. The appearance does not include any workshop activities. Since the educator was hired only for the purpose of making the speech, the person is subject to the 2% tax. The speech falls into object code 2D61.

10. If the sole purpose of an appearance by a nonresident were to deliver a speech or lecture, the person would be included under the statute as an entertainer and be subject to withholding. If the appearance includes other consultant or technical services, the nonresident would not be subject to the withholding rules.

Responsibility

Agency

1. Determine if the service is subject to the 2% Non-resident Entertainers' and Speakers' Tax.

1. If non-taxable, enter full amount as an APK (annual plan) or PTK (professional/technical) document in CFMS using a specific vendor number. Select the appropriate commodity code and corresponding object code (2D61 and/or 2D62).
2. If taxable, enter 98% as an APK or PTK document in CFMS using a specific vendor number. Select the appropriate commodity code and corresponding object code 2D61 and/or 2D62.

For the 2% tax amount, enter a separate encumbrance(s) using the same object code(s) as the 98% portion in MAPS Accounting. **Do not enter in MAPS Procurement or CFMS.**

2. When contracting with the speaker or entertainer, if it is determined that their services are subject to the 2% tax, notify the vendor that the 2% tax will be withheld from their payment.
3. Upon receiving an invoice, refer to the table on the following pages to determine how to process the payment(s).

If the table indicates that the payment(s) must include the 2% tax, enter one payment to the vendor for 98% of the fee and enter an intra-governmental payment for the 2% tax **on the same day as the payment to the vendor**, with the following Seller data:

Fund	100
Agency	G90

Org	7520
Rev Srce	1005
Vendor	Vendor number and transaction number of 98% portion of the vendor
Invoice	payment

Note: If paying for both a performance and the entertainer's reimbursable expenses, process a two-line payment, one line to object code 2D61 and one line to object code 2D62. The same day, enter a related two-line intra-governmental payment for the 2% tax. **The payments must be split and entered on the same day to enable Finance to prepare Form 1099 accurately.**

4. Complete the nonresident entertainer tax form found on the Department of Revenue's website www.taxes.state.mn.us/forms/etd.pdf. Mail the form to Revenue or fax to 651-556-5152.

Finance

1. Run a monthly report on all payments over \$2,000.00 made to object codes 2D61 and 2D62 to nonresidents in non-reciprocity states. Exclude any payments that are for 2D62 only with no related 2D61.
2. Run a monthly report on all intergovernmental payments with a seller revenue source code of 1005.
3. Review reports and determine if all valid payments have been made to the Department of Revenue.
4. Notify agencies if the 2% tax has not been sent to the Department of Revenue and have them enter the PV2.
5. If the vendor is not a corporation, modify the 1099 to include the 2% tax.
6. If the vendor is a corporation, create a 1099 and include both the amount sent to the vendor (the 98%) and the amount sent to Revenue (the 2%).

How to Pay Speakers and Entertainers

Whose Services Fall Into Object Code 2D61

Important exemption: Payments to a nonresident public speaker are exempt from withholding if the compensation paid to the speaker is less than \$2,000 or is only a payment of the speaker's expenses. In these cases, process the payment for 100% of the amount(s) due.

Note: Do not make speaker/entertainer-related payments to third parties such as travel agencies and hotels. Reimburse speakers and entertainers for their travel expenses directly.

Speaker/Entertainer's State of Residence	Type of Vendor	Transaction(s) to Process
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Minnesota, North Dakota, Wisconsin, or Michigan	(any type of vendor)	Vendor payment for 100% of amount(s) due
Any other state (See the <i>important exemption</i> listed near the top of this table)	Individual independent contractor	Vendor payment for 98% of amount(s) due. PV Type 2 for 2% of amount(s) due to Seller Fund 100, Agency G90, Organization 7520, and Revenue Source 1005 in MAPS Accounting. The vendor invoice field must include the vendor number and the transaction number of the vendor's 98% payment portion.
	Corporation whose speaker/entertainer is a major share-holder of the corporation	Vendor payment for 98% of amount(s) due. PV Type 2 for 2% of amount(s) due to Seller Fund 100, Agency G90, Organization 7520, and Revenue Source 1005 in MAPS Accounting. The vendor invoice field must include the vendor number and the transaction number of the vendor's 98% payment portion.
	Corporation whose speaker/entertainer is <i>not</i> a major share-holder	Vendor payment for 100% of amount(s) due
	Partnership whose speaker/entertainer is a partner in the firm.	Vendor payment for 98% of amount(s) due. PV Type 2 for 2% of amount(s) due to Seller Fund 100, Agency G90, Organization 7520, and Revenue Source 1005 in MAPS Accounting. The vendor invoice field must include the vendor number and the transaction number of the vendor's 98% payment portion.
	Partnership whose speaker/entertainer is <i>not</i> a partner in the firm.	Vendor payment for 100% of amount(s) due.